IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 468 OF 2005

IN

WRIT PETITION NO. 512 OF 2004

SHRI JEETENDRA R.DESHPRABHU,PERNEM GOA. ....Applicant

Versus

STATE OF GOA THROUGH ITS CHIEF SECRETARY & 7 ORS., ...Respondents

Shri M.s. Sonak, Advocate for the Applicant.
Shri M.S. Joshi, Govt. Advocate for Respondents No.1 to 5.
Shri S.D. Padiyar, Advocate for Respondent No.6.
Shri M. Pereira, Advocate for Respondent No.7.
Shri V.B. Nadkarni, Senior Advocate with Shri Y.V. Nadkarni, Advocate for Respondent No.8.

Coram:- R. M. LODHA &
N. A. BRITTO, JJ.

Date:- 4th October, 2005

P.C.:

Heard Shri M.S. Sonak, learned counsel for the Applicant, Shri M.S. Joshi, Government Advocate for Respondent No.3 and Shri V.B. Nadkarni, learned Senior Counsel for the Respondent No.8.

In this application, the applicant prays that no objection certificate dated 1.11.2004 issued by the Respondent No.2 under Rule 20 of the Goa, Daman and Diu Cinematograph Rules 1965 be suspended and Respondent No.8 be restrained from using Osia Multiplex as a Cinema theatre.

The aforesaid prayer is made against the backdrop of the Orders of this Court dated 24th November, 2004 and 13th December, 2004.

By the Order dated 24.11.2004 by way of an interim arrangement this Court directed Respondent No.3 namely the Director, Directorate of Fire and Emergency Services that the duly equipped fire brigade vans in adequate numbers are stationed around the Multiplex during the exhibition of the movies. The said interim arrangement has been continued vide Order dated 13th December, 2004. It appears that for few days the Fire Services as contemplated in the aforesaid Order were made available by Respondent No.3 and thereafter the same could not be made available in view of the difficulties set out by the Director of Fire and Emergency Services in his affidavit dated 29th September, 2005 and also allegedly due to non-payment by the respondent No.8.

We appreciate that it may not be possible and feasible for the Director of Fire and Emergency Services to provide for the fire brigade vans in adequate numbers stationed around the Multiplex permanently when the cinema exhibition is in progress in view of the limited operational facilities available with them. As a matter of fact, while passing the Order dated 24.11.04, this Court made it very clear that this was an interim arrangement; obviously until adequate steps of fire prevention were taken by the respondent No.8 as per the Notification issued by the Government in exercise of the powers conferred by sub-section (1) of Section 13 of the Goa, Daman and Diu Fire Force Act, 1986 and/or any other Notification issued by the Government of Goa and the relevant provisions of the Goa State Fire Force Act, 1986 and the Rules framed thereunder.

We are informed by the learned Senior Counsel for Respondent No.8 that the subject premises namely Osia Multiplex is complete with fire prevention measures as provided in the Act of 1986, Rules framed thereunder and the Notification/s issued by the Government of Goa. In the light of the available material and the submissions made before us, we are satisfied that the following order shall meet the ends of justice :-

(i) The Respondent No.8 namely M/s Osia Multiplex is directed to

deposited a sum of Rs.50,000/- with the Director, Directorate of Fire and Emergency Services, Government of Goa, within three days from today.

(ii) The respondent No.3 namely the Director, Directorate of Fire and Emergency Services, Government of Goa, shall, as far as practicable, provide adequate number of duly equipped fire brigades stationed around the Multiplex when the cinema exhibition is in progress from the date the amount of Rs.50,000/- is deposited by the Respondent No.8 and adjust the daily expenses in that regard from the amount of Rs.50,000/- so deposited by the Respondent No.8.

(iii) As soon as an amount of Rs.25,000/- is adjusted towards the expenditure incurred by Respondent No.3 in providing the fire brigade vans as directed in the Order dated 24.11.04, further sum of Rs.25,000/- shall be deposited by the Respondent No.8 with the Respondent No.3.

(iv) The arrangement as aforedirected shall continue until all preventive measures are found in place by the respondent No.3 as required under the Goa Fire Force Act, 1986, the Rules framed thereunder and the Notifications issued from time to time and no objection certificate is issued to the respondent No.8.

(v) The respondent No.3 is directed to cause the inspection of the respondent No.8 premises done within 15 days from today and in case the Osia Multiplex (Respondent No.8) is found to have complete operational fire preventive measures as required under the Act of 1986, the Rules of 1997 and the Notifications issued from time to time, issue no objection certificate under the said Act and Rules within 15 days of the inspection.

(vi) If, however, the fire preventive measures at Osia Complex are found inadequate and within the time prescribed by the Respondent No.3, the deficiencies are not made up by the Respondent No.8, the Respondent No.3 is given liberty to apply to this Court for appropriate order.

(vii) Needless to say that the respondent No.3 shall be at liberty to utilise its resources including fire brigades in meeting the emergent situation elsewhere and the order of this Court dated 24.11.2004 and continued by the Order dated 13.12.2004 shall not be construed that in all circumstances the duly equipped fire brigades have to be stationed at Osia Complex.

Misc. Civil Application stands disposed of.

R. M. LODHA, J.

N. A. BRITTO, J.

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